

# EXHIBIT 1

**United States District Court  
District of Minnesota**

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Skky, Inc.,

Case No.: 13-2086 (PJS/JJG)

Plaintiff,

vs.

Manwin USA, Inc., and Manwin Holding, s.ar.l,

Defendant.

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**Skky, Inc.'s Initial Disclosures**

Plaintiff Skky, Inc. ("Skky") submits these Initial Disclosures. Skky reserves the right to call any witness and to present any exhibit or item at trial not listed in these disclosures but determined through discovery of Defendant's materials. Skky's Initial Disclosures are also made without waiving: (1) the right to object on the grounds of competency, privilege, relevancy and materiality, hearsay or any other proper ground; and (2) the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these Initial Disclosures. Skky will supplement these disclosures as necessary.

**I. The name and last known addresses of witnesses Skky may rely on**

1. John Mikkelsen. Mr. Mikkelsen may only be contacted through counsel. Mr.

Mikkelsen is a co-inventor on the '875 patent, and is likely to have knowledge of the conception and development of the technologies involved in the inventions claimed in the '875 patent.

2. Dr. Robert Freidson. Dr. Freidson may only be contacted through counsel. Dr. Freidson is a co-inventor on the '875 patent, and is likely to have knowledge of the conception and development of the technologies involved in the inventions claimed in that '875 patent.

## **II. Identification of categories of documents that Skky may rely on**

Copies of the documents and things that are reasonably available to Skky and presently contemplated to be used in this action are as follows:

1. U.S. Patent No. 7,548,875.
2. File history of US. Patent No. 7,548,875.
3. Any documents produced by third parties in this litigation.
4. All discovery responses, expert reports, disclosures, and other documents produced in this litigation.

## **III. Identification of categories of damages claimed by Skky**

Sky alleges that Defendant infringes, directly and/or indirectly, the '875 patent by making, using, selling, or offering to sell within the United States products that embody one or more of the claims in the patent. Under 35 U.S.C. § 284, Skky is entitled to damages adequate to compensate for this infringement, including at least a reasonable royalty, together with interest and costs. Skky may also be entitled to treble damages and attorneys' fees. In addition, pursuant to 35 U.S.C. § 283, Skky seeks injunctive relief from Defendants' continued infringement of any and all of the asserted patents. Skky reserves the right to claim other damages and categories of damages. Any further computation of damages is premature because fact and expert discovery has not taken place. The relevant Advisory Committee notes to the 1993 amendment to Rule 26(a)(1)(C), in fact, specifically relaxed the initial disclosure requirement for damages in cases like this one, where precise calculations depend on information not initially available to the patent holder: "a party would not be expected to provide a calculation of damages which, as in many patent infringement actions, depends on information in the possession of another party or person." Fed. R. Civ. P. 26(a)(1)(C) advisory committee's note.

## **IV. Identification of relevant insurance agreements**

Skky is unaware of any relevant insurance agreement for this case.

Dated: November 22, 2013

**ROBINS, KAPLAN, MILLER & CIRESI, LLP**

By: s/Ryan Schultz

Ronald J. Schutz (0130849)

Becky R. Thorson (0254861)

Ryan Schultz (0392648)

Benjamin Linden (0393232)

800 LaSalle Avenue, Suite 2800

Minneapolis, MN 55402

Phone: (612) 349-8500

**PARKER ROSEN, LLC**

Andrew D. Parker (0195042)

300 First Avenue North, Suite 200

Minneapolis, MN 55401

**ATTORNEYS FOR PLAINTIFF**

**Certificate of Service**

I certify that on this 22nd day of November, 2013, I served Skky, Inc.'s Initial Disclosures on counsel of record for Defendant by electronic mail.

**ROBINS, KAPLAN, MILLER & CIRESI, LLP**

By: s/Ryan Schultz

Ronald J. Schutz (0130849)

Becky R. Thorson (0254861)

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Andrew D. Parker (0195042)

300 First Avenue North, Suite 200

Minneapolis, MN 55401

**ATTORNEYS FOR PLAINTIFF**

# EXHIBIT 2

**From:**

**Sent:**

**To:**

**Cc:**

Schultz, Ryan M. <RMSchultz@rkmc.com>

Tuesday, December 10, 2013 12:12 PM

'Emily M Wood'

BBerens@berensmiller.com; Linden, Benjamin C.; Thorson, Becky R.;

cjfranecki@gmail.com; crigsby@foley.com; Levin, Carly S.; dlwitcoff@JonesDay.com;

Gasparo, Frank M.; Jason.Lien@maslon.com; JMiller@berensmiller.com;

Klittman@foley.com; MMoran@foley.com; May, Patricia A.; parker@parkerrosen.com;

Schutz, Ronald J.; George, Sharon C.; ted.budd@FaegreBD.com;

tjheverin@JonesDay.com; Noshier, Todd M.; Bornstein, William

Skky v. Myxer, et al - ESI and Consolidation for Pre-trial matters

MP-Primary\_84354060\_1.DOCX

**Subject:**

**Attachments:**

Counsel,

Now that the scheduling order is in place for these cases, we believe we should reach an agreement on two issues. First, we should reach an agreement that these cases should be consolidated for pre-trial purposes, except for those items addressed in the scheduling order (like fact discovery limits). This consolidation will facilitate easier management of the cases, and I don't believe this was a real point of disagreement between the parties. Second, we should reach an agreement on ESI. To that end, we have attached Skky's proposal for handling ESI. We suggest that we set up a teleconference for Friday Dec. 13, 2013 at 10am Central/11am Eastern to discuss these issues. The call-in information is below:

Dial-in: 877-260-4544

Pass code: 612 349 8408

Regards,

Ryan

# EXHIBIT 3



The Securities and Exchange Commission has not necessarily reviewed the information in this filing and has not determined if it is accurate and complete.  
The reader should not assume that the information is accurate and complete.

**UNITED STATES SECURITIES AND EXCHANGE  
COMMISSION**  
Washington, D.C. 20549  
**FORM D**

**OMB APPROVAL**

OMB Number: 3235-0076  
Expires: August 31, 2015  
Estimated average burden  
hours per response: 4.00

**Notice of Exempt Offering of Securities**

**1. Issuer's Identity**

CIK (Filer ID Number)

[0001593553](#)

Name of Issuer

[SKKY Inc](#)

Jurisdiction of  
Incorporation/Organization

[MINNESOTA](#)

Year of Incorporation/Organization

☒ Over Five Years Ago

☐ Within Last Five Years (Specify Year)

☐ Yet to Be Formed

Previous  
Names ☐ None

[4 Media Inc.](#)

Entity Type

☒ Corporation

☐ Limited Partnership

☐ Limited Liability Company

☐ General Partnership

☐ Business Trust

☐ Other (Specify)

**2. Principal Place of Business and Contact Information**

Name of Issuer

[SKKY Inc](#)

Street Address 1

[888 COLWELL BUILDING](#)

Street Address 2

[123 NORTH THIRD STREET](#)

City

[MINNEAPOLIS](#)

State/Province/Country

[MINNESOTA](#)

ZIP/PostalCode

[55401](#)

Phone Number of  
Issuer

[612-767-3000](#)

**3. Related Persons**

Last Name

[Mikkelsen](#)

First Name

[John](#)

Middle Name

[P.](#)

Street Address 1

[888 Colwell Building](#)

Street Address 2

[123 North Third Street](#)

City

[Minneapolis](#)

State/Province/Country

[MINNESOTA](#)

ZIP/PostalCode

[55401](#)

Relationship: ☒ Executive Officer ☒ Director ☐ Promoter

Clarification of Response (if Necessary):

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Last Name	First Name	Middle Name
Freidson	Robert	I.
Street Address 1	Street Address 2	
888 Colwell Building	123 North Third Street	
City	State/Province/Country	ZIP/PostalCode
Minneapolis	MINNESOTA	55401
Relationship: <input checked="" type="checkbox"/> Executive Officer <input checked="" type="checkbox"/> Director <input type="checkbox"/> Promoter		

Clarification of Response (if Necessary):

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Last Name	First Name	Middle Name
Parker	Andrew	
Street Address 1	Street Address 2	
888 Colwell Building	123 North Third Street	
City	State/Province/Country	ZIP/PostalCode
Minneapolis	MINNESOTA	55401
Relationship: <input checked="" type="checkbox"/> Executive Officer <input type="checkbox"/> Director <input type="checkbox"/> Promoter		

Clarification of Response (if Necessary):

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Last Name	First Name	Middle Name
McGrew	Rod	
Street Address 1	Street Address 2	
888 Colwell Building	123 North Third Street	
City	State/Province/Country	ZIP/PostalCode
Minneapolis	MINNESOTA	55401
Relationship: <input type="checkbox"/> Executive Officer <input checked="" type="checkbox"/> Director <input type="checkbox"/> Promoter		

Clarification of Response (if Necessary):

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Last Name	First Name	Middle Name
Naegele III	Robert	
Street Address 1	Street Address 2	
888 Colwell Building	123 North Third Street	
City	State/Province/Country	ZIP/PostalCode
Minneapolis	MINNESOTA	55401
Relationship: <input type="checkbox"/> Executive Officer <input checked="" type="checkbox"/> Director <input type="checkbox"/> Promoter		

Clarification of Response (if Necessary):

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**4. Industry Group**

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☐ Agriculture

Health Care

☐☐ Retailing☐

## Banking &amp; Financial Services

☐ Commercial Banking☐ Insurance☐ Investing☐ Investment Banking☐ Pooled Investment Fund

Is the issuer registered as  
an investment company under  
the Investment Company  
Act of 1940?

☐ Yes☐ No☐ Other Banking & Financial Services☐ Business Services

## Energy

☐ Coal Mining☐ Electric Utilities☐ Energy Conservation☐ Environmental Services☐ Oil & Gas☐ Other Energy☐ Biotechnology☐ Health Insurance☐ Hospitals & Physicians☐ Pharmaceuticals☐ Other Health Care☐ Manufacturing

## Real Estate

☐ Commercial☐ Construction☐ REITS & Finance☐ Residential☐ Other Real Estate☐ Restaurants

## Technology

☐ Computers☐ Telecommunications☒ Other Technology

## Travel

☐ Airlines & Airports☐ Lodging & Conventions☐ Tourism & Travel Services☐ Other Travel☐ Other**5. Issuer Size**

## Revenue Range

OR

## Aggregate Net Asset Value Range

☐ No Revenues☐ \$1 - \$1,000,000☐ \$1,000,001 -  
\$5,000,000☐ \$5,000,001 -  
\$25,000,000☐ \$25,000,001 -  
\$100,000,000☐ Over \$100,000,000☒ Decline to Disclose☐ Not Applicable☐ No Aggregate Net Asset Value☐ \$1 - \$5,000,000☐ \$5,000,001 - \$25,000,000☐ \$25,000,001 - \$50,000,000☐ \$50,000,001 - \$100,000,000☐ Over \$100,000,000☐ Decline to Disclose☐ Not Applicable**6. Federal Exemption(s) and Exclusion(s) Claimed (select all that apply)**☐ Rule 504(b)(1) (not (i), (ii) or (iii))☐ Rule 504 (b)(1)(i)☐ Rule 504 (b)(1)(ii)☐ Investment Company Act Section 3(c)☐ Section 3(c)(1)☐ Section 3(c)(9)☐☐

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Rule 504 (b)(1)(iii)           | <input type="checkbox"/> Section 3(c)(2) | <input type="checkbox"/> Section 3(c)(10) |
| <input type="checkbox"/> Rule 505                       | <input type="checkbox"/> Section 3(c)(3) | <input type="checkbox"/> Section 3(c)(11) |
| <input checked="" type="checkbox"/> Rule 506(b)         | <input type="checkbox"/> Section 3(c)(4) | <input type="checkbox"/> Section 3(c)(12) |
| <input type="checkbox"/> Rule 506(c)                    | <input type="checkbox"/> Section 3(c)(5) | <input type="checkbox"/> Section 3(c)(13) |
| <input type="checkbox"/> Securities Act Section 4(a)(5) | <input type="checkbox"/> Section 3(c)(6) | <input type="checkbox"/> Section 3(c)(14) |
|   | <input type="checkbox"/> Section 3(c)(7) |   |

**7. Type of Filing**

- ☒ New Notice    Date of First Sale **2013-11-22**    ☐ First Sale Yet to Occur
- ☐ Amendment

**8. Duration of Offering**

Does the Issuer intend this offering to last more than one year?    ☐ Yes ☒ No

**9. Type(s) of Securities Offered (select all that apply)**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Equity   | <input type="checkbox"/> Pooled Investment Fund Interests |
| <input type="checkbox"/> Debt  | <input type="checkbox"/> Tenant-in-Common Securities      |
| <input checked="" type="checkbox"/> Option, Warrant or Other Right to Acquire Another Security                       | <input type="checkbox"/> Mineral Property Securities      |
| <input type="checkbox"/> Security to be Acquired Upon Exercise of Option, Warrant or Other Right to Acquire Security | <input type="checkbox"/> Other (describe)                 |

**10. Business Combination Transaction**

Is this offering being made in connection with a business combination transaction, such as a merger, acquisition or exchange offer?    ☐ Yes ☒ No

Clarification of Response (if Necessary):

**11. Minimum Investment**

Minimum investment accepted from any outside investor \$**0** USD

**12. Sales Compensation**

Recipient	Recipient CRD Number <input checked="" type="checkbox"/> None	
(Associated) Broker or Dealer <input checked="" type="checkbox"/> None	(Associated) Broker or Dealer CRD Number <input checked="" type="checkbox"/> None	
Street Address 1	Street Address 2	
City	State/Province/Country	ZIP/Postal Code
State(s) of Solicitation (select all that apply)	<input type="checkbox"/> All States <input type="checkbox"/> Foreign/non-US	

Check "All States" or check  
individual States

☐

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**13. Offering and Sales Amounts**

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Total Offering Amount      \$3,240,000 USD or ☐ Indefinite

Total Amount Sold      \$3,240,000 USD

Total Remaining to be Sold      \$0 USD or ☐ Indefinite

Clarification of Response (if Necessary):

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**14. Investors**

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☐ Select if securities in the offering have been or may be sold to persons who do not qualify as accredited investors, and enter the number of such non-accredited investors who already have invested in the offering.

Regardless of whether securities in the offering have been or may be sold to persons who do not qualify as accredited investors, enter the total number of investors who already have invested in the offering:

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**15. Sales Commissions & Finder's Fees Expenses**

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Provide separately the amounts of sales commissions and finders fees expenses, if any. If the amount of an expenditure is not known, provide an estimate and check the box next to the amount.

Sales Commissions \$0 USD ☐ Estimate

Finders' Fees \$0 USD ☐ Estimate

Clarification of Response (if Necessary):

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**16. Use of Proceeds**

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Provide the amount of the gross proceeds of the offering that has been or is proposed to be used for payments to any of the persons required to be named as executive officers, directors or promoters in response to Item 3 above. If the amount is unknown, provide an estimate and check the box next to the amount.

\$0 USD ☐ Estimate

Clarification of Response (if Necessary):

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**Signature and Submission**

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**Please verify the information you have entered and review the Terms of Submission below before signing and clicking SUBMIT below to file this notice.**

**Terms of Submission**

In submitting this notice, each issuer named above is:

- Notifying the SEC and/or each State in which this notice is filed of the offering of securities described and undertaking to furnish them, upon written request, in the accordance with applicable law, the information furnished to offerees.\*

- Irrevocably appointing each of the Secretary of the SEC and, the Securities Administrator or other legally designated officer of the State in which the issuer maintains its principal place of business and any State in which this notice is filed, as its agents for service of process, and agreeing that these persons may accept service on its behalf, of any notice, process or pleading, and further agreeing that such service may be made by registered or certified mail, in any Federal or state action, administrative proceeding, or arbitration brought against it in any place subject to the jurisdiction of the United States, if the action, proceeding or arbitration (a) arises out of any activity in connection with the offering of securities that is the subject of this notice, and (b) is founded, directly or indirectly, upon the provisions of: (i) the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any rule or regulation under any of these statutes, or (ii) the laws of the State in which the issuer maintains its principal place of business or any State in which this notice is filed.
- Certifying that, if the issuer is claiming a Regulation D exemption for the offering, the issuer is not disqualified from relying on Regulation D for one of the reasons stated in Rule 505(b)(2)(iii) or Rule 506(d).

Each Issuer identified above has read this notice, knows the contents to be true, and has duly caused this notice to be signed on its behalf by the undersigned duly authorized person.

For signature, type in the signer's name or other letters or characters adopted or authorized as the signer's signature.

Issuer	Signature	Name of Signer	Title	Date
SKKY Inc	/s/ John Mikkelsen	John Mikkelsen	CEO	2013-12-05

*Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.*

\* This undertaking does not affect any limits Section 102(a) of the National Securities Markets Improvement Act of 1996 ("NSMIA") [Pub. L. No. 104-290, 110 Stat. 3416 (Oct. 11, 1996)] imposes on the ability of States to require information. As a result, if the securities that are the subject of this Form D are "covered securities" for purposes of NSMIA, whether in all instances or due to the nature of the offering that is the subject of this Form D, States cannot routinely require offering materials under this undertaking or otherwise and can require offering materials only to the extent NSMIA permits them to do so under NSMIA's preservation of their anti-fraud authority.